



February 11, 1999

Ms. Tenley Aldredge
Assistant County Attorney
County of Travis
314 W. 11th, Suite 300
Austin, Texas 78767

OR99-0436

Dear Ms. Aldredge:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 121973.

The County of Travis received a request for information related to the investigation of a bank robbery. The request was made by an individual implicated in this crime by an informant. You assert that the information is excepted from public disclosure by sections 552.101, 552.108 and 552.130 of the Government Code. You have submitted the responsive information, marked to indicate the relevant exceptions you claim. We have considered the exception you claim and reviewed the submitted information.

You seek to withhold information pursuant to section 552.108 of the Government Code. The purpose of this exception is to deny access to materials whose release would interfere with law enforcement and the prevention of crime. *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). The exception is generally limited to the records of governmental bodies whose primary function is to investigate crimes and enforce criminal laws. Open Records Decision No. 493 at 2 (1988). However, the exception may be invoked by any proper custodian of information relevant to an incident involving allegedly criminal conduct that is still under active investigation or prosecution. Open Records Decision No. 474 (1987).

Basic information about an arrested person, an arrest or a crime is not excepted by this statute. Govt. Code § 552.108(c). The courts recognize a right of access to such basic information, characterized as "front page offense report information;" such information is expressly made public by court decision. *Houston Chronicle Publishing Company v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Our office has summarized the "basic" information that must be released as follows:

- (a) the name, age, address, race, sex, occupation, alias, and physical condition of an arrested person;
- (b) the date and time of arrest;
- (c) the offense charged and the court in which it is filed;
- (d) the details of an arrest;
- (e) booking information;
- (f) the notation of any release or transfer;
- (g) bonding information;
- (h) the location of the crime;
- (i) the identification and description of the complainant;
- (j) the premises involved
- (k) the time of the occurrence of the crime
- (l) the property involved;
- (m) the vehicles involved, if any;
- (n) a description of the weather;
- (o) a detailed description of the offense; and
- (p) the names of the arresting and investigating officers

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Excluding "basic" information, section 552.108 excepts three categories of information: 1) information the release of which would interfere with criminal investigation or prosecution, 2) information that relates to an investigation that did not result in a conviction or deferred adjudication, and 3) information that was prepared by or reflects the legal reasoning or mental impression of a prosecutor.

You have asserted a claim under the first of these categories. A governmental body making a claim under this category must explain how and why release would interfere with law enforcement if this claim is not apparent on the face of the submitted documents. Open

Records Decision No. 434 (1986). A demonstration that the prosecution or investigation of a criminal offense has not concluded satisfies this requirement. You state that the file has been referred the FBI. In your brief of November 23, 1998, you represented that the FBI investigation of this case is active. In telephone communication with your office on February 9, 1999, you again indicated that prosecution of this case continues. Based on your representations, we conclude that release of the information before the conclusion of the criminal proceeding would interfere with the prosecution of this crime. As you have demonstrated that you are the proper custodian of these records, you may withhold them under section 552.108 of the Government Code on behalf of the FBI, pursuant to Open Records No. 474 (1987). Excluding "basic" information, the submitted documents may therefore be withheld.

Although section 552.108(a)(1) authorizes you to withhold the remaining information from disclosure, you may choose to release all or part of the information at issue that is not otherwise confidential by law. *See* Gov't Code § 552.007.

As the other exceptions raised will not except "basic" information from disclosure, our discussion under section 552.108 is dispositive. Therefore this opinion shall not address the other exceptions you raised.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Michael Jay Burns
Assistant Attorney General
Open Records Division

MJB/ch

Ref.: ID# 121973

Enclosures: Submitted documents

cc: Mr. Terry L. Moseley
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(w/o enclosures)